

INTERIOR BOARD OF INDIAN APPEALS

In Re Legal Status of Crow Tribal Chairmanship 53 IBIA 25 (02/08/2011)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS INTERIOR BOARD OF INDIAN APPEALS 801 NORTH QUINCY STREET SUITE 300 ARLINGTON, VA 22203

IN RE LEGAL STATUS OF CROW)	Order Dismissing Appeal
TRIBAL CHAIRMANSHIP)	
)	Docket No. IBIA 09-50-A
)	
)	February 8, 2011

Calvin Coolidge Jefferson, Jr. (Appellant), appealed to the Board of Indian Appeals (Board) on matters related to the Crow Tribal election held in 2008, in which Appellant challenged then-incumbent Carl E. Venne for Chairman of the Crow Tribe (Tribe). In his appeal, Appellant contended that Venne, who was declared re-elected, was not eligible to serve another term, and that Appellant should either be declared the Tribal Chairman or that there should be a run-off between the next two top candidates, which apparently included Appellant. On receipt of the appeal, the Board issued an order for Appellant to show cause why the appeal should not be dismissed for lack of jurisdiction. Shortly after the appeal was filed, Chairman Venne died, and the Regional Director filed a motion to dismiss the appeal as moot, to which Appellant objected. The Board took the motion to dismiss under advisement and allowed completion of briefing on the order to show cause.

On December 16, 2010, before taking this case under consideration, the Board issued an order noting that an intervening election by the Tribe may have rendered this appeal moot.² The Board observed that the Tribe's official website indicates that Appellant

¹ See Pre-Docketing Notice, Order for Clarification, and Order to Show Cause, Feb. 11, 2009. Among other things, the Board required Appellant to clarify whether he was seeking the Board's review of actions of Tribal officials (over which the Board would lack jurisdiction) or review of a decision of the Rocky Mountain Regional Director (Regional Director), Bureau of Indian Affairs. The Board also raised the issue of exhaustion of tribal remedies.

² An appeal becomes moot when nothing turns on its outcome. *See Pueblo of Tesuque v. Acting Southwest Regional Director*, 40 IBIA 273, 274 (2005). A subsequent valid tribal election renders moot an appeal from a prior election. See *Smith v. Acting Pacific Regional Director*, 42 IBIA 224, 224-25 (2006), and cases cited therein. When a subsequent election has been held, the burden is on an appellant to demonstrate that the appeal is not moot. *See Boland v. Pacific Regional Director*, 42 IBIA 236, 239 (2006).

is now serving in the position of the Tribe's Vice-Chairman, a position to which he apparently was elected in 2009 after briefing on this appeal was completed. The Board allowed Appellant to file a response to address the apparent mootness of this appeal in light of the intervening election. The Board advised Appellant that if he failed to respond on or before January 7, 2011, his appeal would be dismissed.

The Board has received no response from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses this appeal.

	I concur:	
// original signed	// original signed	
Steven K. Linscheid	Debora G. Luther	
Chief Administrative Judge	Administrative Judge	